

REMARKS

This is a full and timely response to the outstanding Office action mailed November 30, 2004. Upon entry of the amendments in this response claims 1-31 and 35-38 are pending. More specifically, claims 1, 16, 18, 20-22, 30, 35, and 36 are amended. These amendments are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application. Other statements not explicitly addressed herein are not admitted.

I. Present Status of Patent Application

Claim 21 recites the limitation "said motorized." There is allegedly insufficient antecedent basis for this limitation in the claim. Claims 1, 7-9, 13-28, 30-31, and 35-38 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Priest *et al.* (Patent No. 6,047,160). Claims 2-6, 10-12, and 29 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Priest *et al.* (Patent No. 6,047,160) in view of Knoblach *et al.* (Patent No. 6,628,941).

II. Claim 16 is Clearly Allowable

Applicant first contends that no reference or combination thereof discloses or suggests claim 16 and, therefore, claim 16 is clearly allowable. Applicant respectfully submits that because of the uniqueness of the claim limitations, and especially those added through the foregoing amendment, claim 16 is clearly allowable over all prior references. It is respectfully requested that serious consideration be given to allowing claim 16.

III. Examiner Interview

Applicant wishes to express his sincere appreciation for the time that Examiner Tran spent with Applicant's Attorneys Jeffrey Kuester and Benjamin Balser during a December 28, 2004 telephone discussion regarding the above-identified Office Action. Applicant believes that issues regarding an extendable mast were identified during the telephone discussion, and that they are resolved herein. During that conversation, Examiner Tran seemed to indicate that it

would be potentially beneficial for Applicant to file this amendment and response. Thus, Applicant respectfully requests that Examiner Tran carefully consider this amendment and response.

IV. Miscellaneous Issues

Claim 21 has been amended to correct a typographical error. Applicants wish to clarify that the foregoing amendment has been made for purposes of better defining the invention in response to the rejections made under 35 U.S.C. § 112, and not in response to the rejections based upon any of the references of record. Indeed, Applicants submit that no substantive limitations have been added to the claims. Therefore, no prosecution history estoppel arises from this amendment. Black & Decker, Inc. v. Hoover Service Center, 886 F.2d 1285, 1294 n. 13 (Fed. Cir. 1989); Andrew Corp. v. Gabriel Electronics, Inc., 847 F.2d 819 (Fed. Cir. 1988); Hi-Life Products Inc. v. American National Water-Mattress Corp., 842 F.2d 323, 325 (Fed. Cir. 1988); Mannesmann Demag Corp. v. Engineered Metal Products Co., Inc., 793 F.2d 1279, 1284-1285 (Fed. Cir. 1986); Moeller v. Ionetics, Inc., 794 F.2d 653 (Fed. Cir. 1986).

In the Office Action, certain subject matter is regarded as well-known. In particular, this subject matter includes: using a frequency range of notoriously 1710-1855MHz, 2500-2690 MHz, or 2.4-2.5 GHz in claims 2-5 and 10-12. Applicant respectfully contends that the aforementioned subject matter has not been instantly and unquestionably demonstrated to be notoriously well-known. Per MPEP 2144.03(B), "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge." As specific factual findings predicated on sound technical and scientific reasoning in support of the conclusion of common knowledge are not provided in the Office Action, the subject matter should not be considered to be notoriously well-known.

V. Rejections Under 35 U.S.C. §102(e)

A. Claims 1, 7-9, 13-28, and 37-38

The Office Action rejects claims 1, 7-9, 13-28, and 37-38 under 35 U.S.C. §102(e) as allegedly being anticipated by *Priest* (U. S. Patent No. 6,047,160). For the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 1 recites:

1. A remote, self-contained communications antenna apparatus for establishing wireless communications, comprising:

equipment for

transceiving communication signals between said
equipment and a disconnected cell site that has been

disconnected from its cellular system, and

transceiving communication signals between said
equipment and a communications network ; and

a mast for extending and collapsing an antenna.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 1 as amended is allowable for at least the reason that *Priest* does not disclose, teach, or suggest at least ***a mast for extending and collapsing an antenna***. *Priest* does not disclose an extendable and collapsible antenna. Notwithstanding, no such teaching can be identified anywhere within this reference. Therefore, *Priest* does not anticipate claim 1, and the rejection should be withdrawn.

Because independent claim 1 as amended is allowable over the cited art of record, dependent claims 7-9, 13-28, and 37-38 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 7-9, 13-28, and 37-38 contain all

the steps/features of independent claim 1. See *Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 7-9, 13-28, and 37-38 are patentable over *Priest*, the rejection to claims 7-9, 13-28, and 37-38 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claims 7-9, 13-28, and 37-38 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited art of record. Applicant respectfully contends that no reference or combination thereof discloses or suggests the claim 16 in its entirety. It is respectfully requested that the Examiner give serious consideration to allowing claim 16. Hence there are other reasons why dependent claims 7-9, 13-28, and 37-38 are allowable.

B. Claims 30 and 31

The Office Action rejects claims 30 and 31 under 35 U.S.C. §102(e) as allegedly being anticipated by *Priest* (U. S. Patent No. 6,047,160). For the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 30 recites:

30. A remote, self-contained communications antenna apparatus for establishing wireless communications, comprising:

equipment for

transceiving communication signals between said equipment and a system of cellular devices that use a standard setup channel and frequency coordination, and

transceiving communication signals between said equipment and a communications network; and

a mast for extending and collapsing an antenna.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 30 as amended is allowable for at least the reason that *Priest* does not disclose, teach, or suggest at least **a mast for extending and collapsing an antenna**. *Priest* does not disclose an extendable and collapsible antenna. Notwithstanding, no such teaching can be identified anywhere within this reference. Therefore, *Priest* does not anticipate claim 30, and the rejection should be withdrawn.

Because independent claim 30 as amended is allowable over the cited art of record, dependent claim 31 (which depends from independent claim 30) is allowable as a matter of law for at least the reason that dependent claim 31 contains all the steps/features of independent claim 30. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claim 31 is patentable over *Priest*, the rejection to claim 31 should be withdrawn and the claim allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 30, dependent claim 31 recites further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited art of record. Hence there are other reasons why dependent claim 31 is allowable.

C. Claim 35

The Office Action rejects claim 35 under 35 U.S.C. §102(e) as allegedly being anticipated by *Priest* (U. S. Patent No. 6,047,160). For the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 35 recites:

35. A method for establishing wireless communications, comprising:
transceiving wireless communication signals between a wireless device and a disconnected cell site that has been disconnected from its cellular system; and
transceiving communication signals between said disconnected cell site and a remote, self-contained communications antenna apparatus with **a mast for extending and collapsing an antenna**; and
transceiving communication signals between said remote, self-contained communications antenna apparatus and a communications network.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 35 as amended is allowable for at least the reason that *Priest* does not disclose, teach, or suggest at least **a mast for extending and collapsing an antenna**. *Priest* does not disclose an extendable and collapsible antenna. Notwithstanding, no such teaching can be identified anywhere within this reference. Therefore, *Priest* does not anticipate claim 35, and the rejection should be withdrawn.

D. Claim 36

The Office Action rejects claim 36 under 35 U.S.C. §102(e) as allegedly being anticipated by *Priest* (U. S. Patent No. 6,047,160). For the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 36 recites:

36. A method for establishing wireless communication, comprising:

(a) transceiving communication signals between a remote, self-contained communications antenna apparatus with **a mast for extending and collapsing an antenna** and a system of cellular devices that use a standard setup channel and frequency coordination; and

(b) transceiving communication signals between said cellular system and a communications network.

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 36 as amended is allowable for at least the reason that *Priest* does not disclose, teach, or suggest at least **a mast for extending and collapsing an antenna**. *Priest* does not disclose an extendable and collapsible antenna. Notwithstanding, no such teaching can be identified anywhere within this reference. Therefore, *Priest* does not anticipate claim 36, and the rejection should be withdrawn.

VI. Rejections Under 35 U.S.C. §103(a)**Claims 2-6, 10-12, and 29**

The Office Action rejects claims 2-6, 10-12, and 29 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Priest* (U.S. Patent No. 6,047,160) in view of *Knoblach* (U.S. Patent No. 6,628,941). For the reasons set forth below, Applicant respectfully traverses the rejection.

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-6, 10-12, and 29 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-6, 10-12, and 29 contain all the steps/features of independent claim 1. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d

1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, the rejection to claims 2-6, 10-12, and 29 should be withdrawn and the claims allowed.

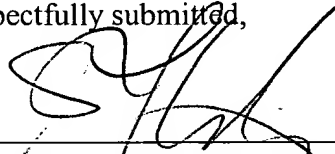
Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claims 2-6, 10-12, and 29 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited art of record. Hence there are other reasons why dependent claims 2-6, 10-12, and 29 are allowable.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claims 2-6, 10-12, and 29 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited art of record. Hence there are other reasons why dependent claims 2-6, 10-12, and 29 are allowable.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-31 and 35-38 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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